

Board of adjustment minutes for 8/23/16

### **Minutes Are Not Verbatim**

James Crellin – It is 7 o'clock on Tuesday, August 23rd the Town of Milton Board of Adjustment is called to order. I'd like to begin with a roll call of members starting on my left.

Brian Dolan-Present

Roger Thomson- Present

Jim Crellin – Present

Steve Crawford - Present

Seth Thompson, Town Solicitor – Present

Janet Turner – present arrived after approval of agenda

James Crellin – We have an agenda. Are there any additions or corrections to the agenda? Hearing none, can I have a motion to approve as written?

Roger Thomson - motion to approve as presented

Brian Dolan – second

James Crellin - We have a motion and second to approve the agenda as present. All those in favor say aye opposed. The agenda is approved.

James Crellin- We are called here today for two applicants and we will be hearing Mr. Pepper first.

James Crellin - The applicant, Frederick H. Pepper, is requesting approval for a variance to the side yard setback as stated in Chapter 220. Zoning, § 220-24 Density Control Table from the required 10 feet to 6 feet. The property is located at 417 Federal Street further identified by Sussex County Tax Map and Parcel # 2-35-20.07-34.00.

Mr. Collier you have any amplification for the applicant? Yes sir what I can state for the record is Mr. Pepper has complied with all the requirements, he has done the required mailings. I have the receipts they are on file in the office of board of adjustment. I have one communication that arrived via email and that has been included in your packet. It is from the owner of the parcel immediately adjoining Mr. Peppers property to the north. The response was favorable to Mr. Pepper's request and that would be the extent of any inquiries to Mr. Pepper's request.

Would Mr. Pepper identified himself, please?

Frederick H. Pepper – This is me

James Crellin - Okay, Mr. Pepper, welcome aboard



John Collier - Mr. Pepper sir, if I can get you to step the microphone and identify yourself for the record, please. Thank you sir.

Seth Thompson - for the record, the microphone serves not only to amplify the meeting but to record the content

James Crellin - can we move the microphone over toward the center.

Frederick H Pepper - My name is Frederick H Pepper.

James Crellin - In regards communications to either in support of or opposition of we have a communication from a neighbor of Mr. Pepper expressing their support. Mr. Pepper, would you state your case, please?

Frederick H Pepper - I think I pretty much covered it in the letter that I included with the application. The case is this house was built in around 1910 by my grandfather who was quite prominent contractor and brick mason in Milton. He was responsible for all of the restoration building in downtown Milton after the great fire. This home was built during that time. It is written on the wall and signed by him. The fact is in that era, there were not very large kitchens built. In this age. Modern kitchens are considerably larger. The home is double wall brick making it near impossible to move through the main wall of the house. The location of the kitchen is such that no matter which direction you investigate for expansion you run into a structural element, making it not feasible for said expansion in that direction. The only area where you do not encounter an obstacle is the outer wall where a double window is currently located facing the Brown's property next door. I am requesting a variance that would enable me to extend the outer wall 4 feet into the setback. I believe this would enable me to improve the kitchen to little more modern standard and allow for the concept of an eat-in kitchen. Both this property and Mrs. Brown's property are part of my family history.

James Crellin - very good

Seth Thompson - Mr. Pepper this is Seth Thompson, you indicate on your application you'd like to bump it out 4 feet. What's the length of the bump out.

Frederick H Pepper - I believe it's 24 feet. If I may point out on the drawing this area is the bump out for the kitchen. The other shaded area is still along a double brick wall and is my intent to create a rounded entrance much like what shows on the adjacent corner in the front. Within that space. We would add a bathroom and closet as there is limited closet space in the house.

James Crellin - does the board have any questions, Mr. Pepper?

Stephen Crawford- Sir, the significance of the yellow versus the blue on the drawing

Frederick H Pepper - this colored area is the bump out for the kitchen and the other colored area is the proposed entrance sunporch and other accessories uses.

Stephen Crawford - understood

Brian Dolan - just so I'm clear here. The yellow area is the bump out for the kitchen.



Frederick H Pepper - yes, there is double window here and that would be where we extend the walls out into the setback to enlarge the kitchen.

Brian Dolan - and everything is enclosed by the dashed line everything in color is to be added on. Do you believe that what you are proposing could be accomplished without projecting into the setback.

Frederick H Pepper - No, because of the double brick walls and the structural members. It is near impossible without risking damage to the integrity of the existing structure.

Brian Dolan - And your intention with this area is?

Frederick H Pepper - there is no bathroom on the first floor and limited closet space throughout the entire home. Currently, what exists is like a square box and it is my intent to make it rounded like the rest of the house.

Brian Dolan - and this is a brick structure

Frederick H Pepper - the entire structure is double wall brick.

James Crellin - this rectangular blue area would be the entry?

Frederick H Pepper - yes . Also, it does not show on this drawing but to the rear of the property is a 50 foot long garage that sits 3 feet off the sideline.

Seth Thompson - so Mr. Pepper the garage to the back to you have a neighbor to the back

Frederick H Pepper- Mrs. Brown's property is on the north. The lot is exceptionally deep and there is considerable distance from the garage to the property at the rear

Seth Thompson - it sounds as though the garage is between the neighbor to the rear and the area you wish to vary that correct?

Frederick H Pepper - yes

John Collier - The garage is considered a pre-existing nonconforming use.

Seth Thompson - it sounds like with that garage where it is. It mitigates any adverse appearance to the neighbor on the property to the rear

James Crellin - the only affected neighbor would be the Brown's.

Frederick H Pepper - we have a very good relationship with the Brown's. As you can see from the drawings as close as her home is to the line she cannot even walk or paint or do any maintenance to the house without encroaching on my property.

Brian Dolan - actually, your setback for Poplar Street is about the same or even less than what you're proposing.

Frederick H Pepper - actually, this is the only location I can do this without damaging the look or the historic integrity of the house

James Crellin - are there any more questions from the Board?



Seth Thompson - just to run down a couple of really quick Mr. Pepper. Do you think there be any detriment health, safety or welfare of the neighbors or the community

Frederick H Pepper - not to my knowledge, I am dumping a lot of money into this property for reasons I don't know. I will never sell it. My son will never sell it and possibly, but I don't know end up in some public hands at some point in time. But it does need to be improved to up-to-date

Seth Thompson - it sounds like you are requesting the minimum variance to get the relief you seek

Frederick H Pepper - yes that's all we are asking for.

Brian Dolan - You did not create this hardship it is just a matter of the preexisting house and meeting today's expectations of a dwelling

Frederick H Pepper - That is correct

Seth Thompson - One note for the record Code requires that any work authorized under the variance must be done within a year.

Roger Thomson - no questions from Mr. Pepper, but I do have a question about this email from Mrs. Brown. Is it to be made part of the record?

James Crellin - yes

James Crellin - Joanie Martin-Brown has sent an email to Mr. Collier, stating her support of Frederick H Pepper's request.

John Collier - for the record, I also received a phone call from Mrs. Martin-Brown confirming my receipt of her email.

Seth Thompson - Mr. Chairman you may have already asked but is there anyone here in opposition to the application.

James Crellin - asked and answered

Seth Thompson - then we may close the public hearing and move into the new business portion of the meeting

James Crellin - are there any other questions, hearing none, then we shall close the public hearing.

James Crellin - new business are we prepared to render a decision

Brian Dolan - I think when I look at it. It does not appear to because any undesirable changes within the neighborhood. In fact, it seems what he's doing is actually enhancing the quality the old and historic building. I don't think the benefit can be achieved by any other means. I don't think the variance is that substantial given the fact that the setback from Poplar Street is less than what is asking for on the other side, I'll be there be any adverse impact on the character the neighborhood. I do not believe this situation was created by Mr. Pepper. I'm glad to see someone else in Milton dumping money into the property for reasons they cannot explain. I believe there's any other way that he can accomplish what he needs to accomplish. I believe that would be basis for approving this application

Roger Thompson, I agree



James Crellin - do we have a motion for acceptance

Janet Turner - I move that we accept Mr. Pepper's proposal

Brian Dolan - I second

James Crellin, all in favor say aye

Brian Dolan - aye

Roger Thomson - aye

Janet Turner - aye

Stephen Crawford - aye

James Crellin - aye

James Crellin - motion carried

Seth Thompson - Mr. Pepper just for the record is matter of procedure the board will have to adopt a written decision before the action is considered final. That should be prepared rather quickly can be adopted as early as next month. As an explanation that one ~~year~~<sup>year</sup> date does not begin until the written decision is adopt also if someone were to appeal they have that period of time in which to file one.

James Crellin - the second item of business is Stacia and Randy Preston, is requesting approval for a variance to the side yard setback as stated in Chapter 220. Zoning, § 220-24 Density Control Table from the required 10 feet to 9.75 feet. The property is located at 201 Lavinia Street further identified by Sussex County Tax Map and Parcel # 2-35-14.19-4.00. Can the Preston's identify themselves for the record, please?

Randy Preston - here

Stacia Preston - here

James Crellin - Is there anyone present in opposition or support of the Preston's application?

James Crellin - Seeing there's no one else here to speak on this, what is it <sup>that</sup> ~~is~~<sup>you</sup> what is it that you all are seeking to do?

Randy Preston - We don't want to have to move our basement. Our basement is 3 inches off on the front corner into the side setback. It seemed the variance would be the best solution to resolve the problem.

Roger Thomson - Did you buy the house that way?

Randy Preston - No we are building it.

James Crellin - So it's new construction.

Randy Preston - yes

James Crellin - Mr. Collier, do you have anything.



John Collier - yes sir, for the record, the Preston's have completed the required mailings in the specified time frame and all that data is in my possession will be stored in the office of the Board of Adjustment. I received no comments from anyone either for or against the application.

Roger Thomson - have to ask is this a typo are we really talking about a quarter of an inch.

Randy Preston - were talking about 3 inches

John Collier - yes it's .25 feet which would be 3 inches

James Crellin - a quarter of a foot

Randy Preston - the surveyor said if it was a quarter of an inch we wouldn't have to worry about it

James Crellin - who committed the error

Seth Thompson - did someone move a post or stake?

Randy Preston - we went off the survey and we actually had 5 inches to play with but somehow the concrete guy got it. 3 inches to the left.

Brian Dolan - are you building the house yourself?

Randy Preston - yes

Brian Dolan -if I recall the property are there not undeveloped parcels on either side

Randy Preston - Yes , if you're looking at the property to the right is a parcel belonging to Lank and on the left is the driveway to the parcel in the rear belonging to Miceli. I guess you would call the flag lot. They own a narrow width, leading to the rear which opens out to the full width and eventually to the pond.

Seth Thompson - is flag lot. Then behind your lot

Randy Preston - yes

John Collier - the lot is such that it has a narrow width for approximately 200 feet and then opens up and wraps around the rear of the Preston lot.

Seth Thompson- so for roughly 48 feet there be a variance. There will not be another home built on the property immediately to the left as you look at the properties. That portion of the lot is essentially just for the driveway and access.

Roger Thomson- so it's on the left as you look at.

Seth Thompson - I guess my thought process is if you're going to have a encroachment and it's against someone's window at its worst case scenario if it's if it along somebody's driveway to a property in the back that's less detrimental.

Brian Dolan - there is no way to accomplish this without a variance other than tearing it down

Randy Preston - the only other option on aware of would be to purchase a very narrow strip to create a 10 foot side yard.



Seth Thompson - even with that the town would have to approve the lot line adjustment and that is generally because the metes and bounds description would have to change.

James Crellin - any other questions? Comments?

James Crellin - are we prepared to make a decision.

Roger Thomson - I'm ready

Brian Dolan - I just like to say that I do not believe this is an undesirable change to the property considering what exists on the adjoining parcels. The benefit they want to achieve can be achieved by other means, but not without substantial cost with to them. I don't believe the variance is substantial 3 inches nor will it have adverse impact on anyone else's property. However, the other thing that weighs against them is this was a self-created problem. I would still be in support of granting the variance

Seth Thompson - if there no other questions and we should close the public hearing and proceed to the business portion

Seth Thompson - Mr. Dolan, you certainly run to the criteria for a variance of this nature. I have always been interested in the fact that the Milton variance code lends itself more to that weighing element as opposed to most other municipalities have a specific checklist. Essentially a self-created hardship in the county might be disqualified. But that's not the case in Milton

James Crellin - shall we have a motion for accepting the variance application

Janet Turner - I move we grant a variance as requested

Roger Thompson- I second

James Crellin- all those in favor say aye.

Janet Turner - aye

Brian Dolan - aye

Roger Thomson - aye

James Crellin - aye

Stephen Crawford - aye

James Crellin -opposed

James Crellin -motion carried

James Crellin - motion to adjourn

Stephen Crawford- I move we adjourn

Roger Thomson – second

James Crellin- all those in favor say aye

All members of the board – aye



James Crellin - we are adjourned at 7:28 pm